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CANDACE M. MARLOWE
JOE HOLCOMBE vs UNITED STATES OF AMERICA

June 18, 2020

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

JOE HOLCOMBE, ET AL., §
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 §
v. § Civil No. 5:18-cv-555-XR
 §
UNITED STATES OF AMERICA, §
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VIDEOTAPED ORAL DEPOSITION OF

CANDACE McKENZIE MARLOWE

JUNE 18, 2020

VIDEOTAPED ORAL DEPOSITION OF CANDACE McKENZIE MARLOWE, produced as a witness at the instance of the Defendant, and duly sworn, was taken in the above-styled and numbered cause on the 18th of June, 2020, from 10:05 a.m. to 2:52 p.m., before Glenda I. Green, Certified Shorthand Reporter in and for the State of Texas, reported by Computerized Stenotype Machine, Computer-Assisted Transcription, with myself, the witness, the videographer, and the witness's attorney located at the offices of Ken Owen & Associates, 801 West Avenue, Suite 100, Austin, Texas, and all other counsel present via Zoom, pursuant to Notice; Subpoena; the Federal Rules of Civil Procedure; the First Emergency Order regarding the COVID-19 State of Disaster; and any further stated provisions on the record. Counsel also agreed off the record that the Federal Rule 30(b)(5) statement being read into the record by the court reporter could be waived.

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1 him, did he ever express passive suicidal ideation? 12:16

2 A. I don't recall. 12:16

3 Q. And do you recall if his suicidality behaviors 12:16

4 ever increased to include intent and/or plan? 12:16

5 A. No. 12:17

6 Q. So, no -- no, they did not? 12:17

7 A. No, they did not. They did not increase that 12:17

8 I was aware of. 12:17

9 Q. Thank you. 12:17

10 So is it fair that at the time of this 12:17

11 appointment, you had no reason to believe he was going 12:17

12 to hurt himself? 12:17

13 A. Correct. 12:17

14 Q. And at this appointment did you have any 12:17

15 reason to believe that he would hurt anyone else? 12:17

16 A. No. 12:17

17 Q. At any time during the course of your 12:17

18 treatment with Mr. Kelley, did you have reason to 12:17

19 believe that he would hurt someone else? 12:17

20 A. No. 12:17

21 Q. Was Mr. Kelley someone you considered in any 12:17

22 regard a risk for violence during your treatment of him? 12:17

23 A. No. 12:17

24 Q. Given the potential of certain persons with 12:18

25 mental health issues to harm themselves or others, umm, 12:18

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1 do you routinely ask clients if they have weapons or 12:18
2 firearms in the home? 12:18

3 A. No. 12:18

4 Q. Is that something you ever ask of clients? 12:18

5 A. If they have expressed that they have intent 12:18
6 or a plan, then that's the next question, but not 12:18
7 otherwise. 12:18

8 Q. And with Mr. Kelley, did you ever ask him if 12:18
9 he had firearms in the home? 12:18

10 A. No. 12:18

11 Q. Did you ever ask him if he had access to 12:18
12 firearms? 12:18

13 A. I didn't have to because in the first session, 12:18
14 he mentioned he liked hunting hogs and deer, so I 12:18
15 assumed he had hunting stuff for that. 12:18

16 Q. [Laughed]. That's a fair point. I guess... 12:19
17 So when he was referring to hunting hogs 12:19
18 and deer, umm, I guess he wasn't hunting with a bow and 12:19
19 arrow; is that right? 12:19

20 A. Correct. I guess I just assumed it was a gun. 12:19
21 I don't know anything about hunting. 12:19

22 Q. When he described the hunting, did he describe 12:19
23 any specifics of -- of the firearms, what type or whose 12:19
24 they were, any of those details? 12:19

25 A. No. 12:19

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1 your treatment with him? 01:56

2 A. Yes. 01:56

3 Q. And in looking back on your treatment today, 01:56
4 is there anything you felt like you could have done any 01:56
5 differently or would have done differently with his 01:56
6 treatment? 01:56

7 A. No. 01:56

8 Q. All right. Well, let's turn to the -- the 01:56
9 9/1/17 note. So this is Marlowe 34 in my copy. 01:56

10 A. Okay. 01:56

11 Q. So this looks to be about a year after the 01:56
12 last time you saw him. Umm. Do you recall the 01:56
13 circumstances and him reinitiating -- reinitiating 01:57
14 treatment? 01:57

15 A. No, I don't recall. 01:57

16 Q. Is something like this, where a client doesn't 01:57
17 come in for a year and then comes back, is something 01:57
18 like that unusual? 01:57

19 A. No. 01:57

20 Q. In the period between 2016 and when he came 01:57
21 back in 2017, had -- prior to him rescheduling, had you 01:57
22 had any contact with him? 01:57

23 A. No. 01:57

24 Q. And during that period of time, after he last 01:57
25 saw you in 2016 and then in 2017, do you know if he 01:57

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1 sought, you know, psychotherapy elsewhere? 01:57

2 A. No, I don't know. 01:57

3 Q. And when you saw him in September 2017, did he 01:58
4 seem different to you than he had been about a year 01:58
5 prior? 01:58

6 A. No. He seemed about the same. 01:58

7 Q. Was his physical appearance the same? 01:58

8 A. No. I think his hair was falling out. He had 01:58
9 a condition or something with his skin on his head. 01:58

10 Q. Okay. Umm. What about from a mental health 01:58
11 perspective? Was his mental health status the same or 01:58
12 similar to when you last saw him? 01:58

13 A. No. It seemed like it was getting better. 01:58

14 Q. Getting better how? What specifically? 01:59

15 A. Well, he -- They had -- He -- His wife had the 01:59
16 girl, so now he had his son and his baby girl. He had 01:59
17 just got a new job as a security guard at a RV park, and 01:59
18 he said that he had friends that had got him the job. 01:59
19 So there was support there that hadn't been there 01:59
20 before. 01:59

21 Q. On the first part of the "SUMMARY," it 01:59
22 sound -- it says, "Thinks he has Asperger's diagnosis." 01:59
23 Umm. I guess, first, what is Asperger's? 01:59

24 A. It's a form of autism. 01:59

25 Q. And do you know why he was saying that to you? 01:59

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1 A. I think he was just updating me on where he 01:59
2 was at, and he -- It was a self-diagnosis. He had been 01:59
3 doing some research on Google and said that some of the 01:59
4 traits on there seemed like they fit him, and he was 02:00
5 just sharing that with me. 02:00

6 Q. Did you have any clinical opinion as to 02:00
7 whether or not he had Asperger's? 02:00

8 A. No, but I notated it thinking that he was 02:00
9 going to maybe come back and we could look into it 02:00
10 further. 02:00

11 Q. Understood. 02:00

12 And at the time he came in for this 02:00
13 September 2017 appointment, umm, was it his intention to 02:00
14 come back into treatment? 02:00

15 A. I think he was just touching base to see if -- 02:00
16 I think he was really just probing the Asperger's thing, 02:00
17 but since I didn't bite for it, he -- that might have 02:00
18 been part of why he didn't come back. I was hoping he 02:00
19 was initiating services. 02:00

20 Q. Sure. 02:00

21 Now, at the bottom of that note, it looks 02:01
22 like it says, "Client was just catching up - refused 02:01
23 further services." Is that what you were referring to? 02:01

24 A. Yes. 02:01

25 Q. So is it fair to say that you felt like he 02:01

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1 could still benefit from treatment at this time but 02:01

2 he -- he'd like to not continue? 02:01

3 A. Yes. 02:01

4 Q. Do you know whether when he stopped treatment 02:01

5 in 2016, did -- was part or any of the reason he stopped 02:01

6 coming because of any loss of Medicaid benefits? 02:01

7 A. I don't know. I don't know at that time. I 02:01

8 know that when he -- 02:01

9 Q. Okay. 02:01

10 A. -- came in September seven -- 2017, he said he 02:01

11 had Medicaid, but he didn't, and so I didn't even get 02:02

12 paid for that session [laughed]. 02:02

13 Q. I -- I -- Sorry. I missed that. What session 02:02

14 was that? 02:02

15 A. The September 1st, 2017. 02:02

16 Q. Oh, okay. Was there anything concerning to 02:02

17 you at all in Mr. Kelley's presentation to you during 02:02

18 that September 2017 visit? 02:02

19 A. No. 02:02

20 Q. And during the course of this visit did he 02:02

21 discuss anything about being on medication or -- or 02:03

22 medicine? 02:03

23 A. No. 02:03

24 Q. Okay. And when -- It says he refused further 02:03

25 services. Do you recall specifically the reason he gave 02:03

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1 for not wanting to come back? 02:03

2 A. No, I don't recall. 02:03

3 Q. Umm. Did you -- After this visit did you -- 02:03

4 did you communicate with him at all in any way? 02:03

5 A. No, I don't think so. 02:03

6 Q. All right. We've gone through the treatment 02:04

7 notes, and I'm just going to, umm, go through a few of 02:04

8 the things -- or -- Mr. Kelley might have talked to you 02:04

9 about just to see if it was mentioned at all. Umm. 02:04

10 Before I get there, just -- I know you 02:04

11 said that he was guarded and had anxiety, umm, you know, 02:04

12 related to the history of bullying. Umm. Other than 02:04

13 some guardedness, did you have any other concerns or 02:04

14 worries about his reporting of the facts and events to 02:04

15 you? 02:04

16 A. No. 02:04

17 Q. Did you feel like he was a truthful person? 02:05

18 A. Yes, as far as I knew. 02:05

19 Q. Do you recall any instances where you might 02:05

20 have thought he might have been lying or not being 02:05

21 truthful with you? 02:05

22 A. No. 02:05

23 Q. And during the course of treatment did he ever 02:05

24 try to embellish or exaggerate problems? 02:05

25 A. No. 02:05

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1 Q. And did he ever try to inappropriately 02:05
2 minimize problems? 02:05

3 A. No. 02:05

4 Q. Earlier we talked about the Air Force, and I 02:06
5 mentioned, umm, a conviction and domestic abuse and you 02:06
6 said that he hadn't, umm, reported that to you. Did he 02:06
7 ever report to you anything about his being disqualified 02:06
8 from purchasing or owning a firearm? 02:06

9 A. No. 02:06

10 Q. And during your -- your counseling sessions 02:06
11 with Mr. Kelley, did any time he mention, umm, anything 02:06
12 about religion or atheism at all? 02:06

13 A. No. 02:06

14 Q. Did he ever mention the Sutherland Springs 02:06
15 church -- First Baptist Church? 02:06

16 A. No. 02:06

17 Q. Did he mention ever having any legal trouble 02:06
18 or legal issues? 02:06

19 A. No. 02:07

20 Q. Other than his prior wife, Tessa, and current 02:07
21 wife, Danielle, did he talk about any of his other past 02:07
22 girlfriends? 02:07

23 A. No. 02:07

24 Q. Did he ever discuss with you any sexual 02:07
25 assault allegation against him? 02:07

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1 A. No. 02:07

2 Q. Did he ever discuss with you, umm, his use of 02:07

3 pornography? 02:07

4 A. No. 02:07

5 Q. Did he ever confide in you about his, umm, 02:07

6 sexual relations with his wife? 02:07

7 A. No. 02:07

8 Q. So he never said anything to you consistent 02:08

9 with sexually assaulting his wife; is that right? 02:08

10 A. That's correct. 02:08

11 Q. Did he matter -- ever mention anything about 02:08

12 having extreme or unusual sexual fetishes? 02:08

13 A. No. 02:08

14 Q. Did you ever have reason to suspect he might 02:08

15 be abusing his wife, Danielle, in any way? 02:08

16 A. No. 02:08

17 Q. And he never told you about any criminal 02:08

18 charges for abusing animals, did he? 02:08

19 A. No. 02:08

20 Q. And you never had any reasons to suspect he 02:09

21 might be abusing animals; is that right? 02:09

22 A. That's correct. 02:09

23 Q. Did Mr. Kelley ever mention anyone by the name 02:09

24 of Jessica Edwards? 02:09

25 A. No. 02:09